

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRIAN L. GERHARDT

Appeal No. 2005-0890
Application 09/523,079

ORDER DISMISSING APPEAL

Before HARKCOM, Acting Chief Administrative Patent Judge, NASE, Administrative Patent Judge and LEVY, Administrative Patent Judge.

Per curiam.


On March 11, 2005, counsel for the appellants filed, inter alia, a Request for Continued Examination (RCE) under 37 CFR § 1.114. Pursuant to the notice entitled "Request for Continued Examination Practice and Changes to Provisional Application Practice," 65 Fed. Reg. 50092, 50095 (Aug. 16, 2000), and the provisions of 37 CFR § 1.114(d), a request for continued examination under 37 CFR § 1.114 filed after appeal has been taken, but prior to a decision on the appeal, "will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner."

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Accordingly, the appeal in this application is dismissed.

The application is being returned to the examiner for further action as may be appropriate.


GARY V. HARKCOM, Acting Chief
Administrative Patent Judge


JEFFREY V. NASE
Administrative Patent Judge


STUART S. LEVY
Administrative Patent Judge

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